

1 THE HONORABLE JOHN C. COUGHENOUR

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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 UNITED STATES OF AMERICA,

CASE NO. CR15-0202-JCC

10 Plaintiff,

ORDER

11 v.

12 ENRIQUE AGUILAR VALENCIA,

13 Defendant.
14

15 This matter comes before the Court on Defendant Enrique Aguilar Valencia's motion for
16 appointment of counsel (Dkt. No. 338). Having thoroughly considered the motion and the
17 relevant record, the Court hereby DENIES the motion for the reasons explained herein.

18 Mr. Aguilar Valencia asks to Court to appoint counsel to assist him in filing a petition
19 under 28 U.S.C. § 2255. (*Id.* at 1.) There is no right to have counsel appointed in cases brought
20 under § 2255 unless an evidentiary hearing is required. *See Terrovona v. Kincheloe*, 852 F.2d
21 424, 429 (9th Cir. 1988); *Brown v. Vasquez*, 952 F.2d 1164, 1168 (9th Cir. 1991), cert. denied,
22 503 U.S. 1011 (1992); Rule 8(c) of the Rules Governing Section § 2255 Cases in the United
23 States District Courts. The Court may exercise its discretion to appoint counsel for a financially
24 eligible individual where the "interests of justice so require." 18 U.S.C. § 3006A.

25 Mr. Aguilar Valencia has not put forward facts or circumstances to satisfy the Court that
26 the interests of justice are best served by appointment of counsel at this juncture. He has yet to

1 file a § 2255 petition outlining the basis for his claims. Without more, Mr. Aguilar Valencia's
2 mere assertion that his claims are complex and that he does not have legal expertise are
3 insufficient to merit appointment of counsel. Mr. Aguilar Valencia may renew his request for
4 counsel after filing a § 2255 petition. If the Court determines an evidentiary hearing is
5 appropriate, Mr. Aguilar Valencia will be appointed counsel if he qualifies financially. *See* Rule
6 8(c) of the Rules Governing Section § 2255 Cases in the United States District Courts.

7 In a prior letter to the Court, Mr. Aguilar Valencia expressed safety concerns regarding
8 confidentiality of his anticipated habeas petition. (Dkt. No. 336 at 1.) Upon filing a § 2255
9 petition, Mr. Aguilar Valencia may indicate that he wishes to file the document under seal by
10 marking the first page with the phrase "FILED UNDER SEAL" and attaching a motion to seal
11 stating the reasons for the motion. W.D. Wash. Local Civ. R. 5(g). The Court will then determine
12 whether the documents should be maintained under seal.

13 For the foregoing reasons, Defendant Enrique Aguilar Valencia's motion for appointment
14 of counsel (Dkt. No. 338) is DENIED. The Clerk is DIRECTED to provide Mr. Aguilar Valencia
15 with the appropriate 28 U.S.C. § 2255 and *in forma pauperis* application forms.

16 DATED this 14th day of February 2018.

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20 John C. Coughenour
21 UNITED STATES DISTRICT JUDGE
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